

**Filing Date:** June 12, 2019  
**Hearing Date:** September 29, 2020  
**Files:** B19-017 and A19-121  
**Owner/  
Applicant:** Manoj Kapil  
**Address:** 67 Main Street South  
**Ward:** 3  
**Contact:** Shelby Swinfield, Planner I, Development

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**Recommendations:**

That consent application B19-017 is supportable subject to the following conditions being imposed:

1. The Secretary-Treasurer shall have been satisfied that the following conditions have been fulfilled within one year of the mailing date noted below and the Secretary-Treasurer's Certificate under the Planning Act shall be given.
  - a) A Secretary-Treasurer's certificate fee shall be paid, in the amount current at the time of the issuance of the Secretary-Treasurer's Certificate;
  - b) Approval of the draft reference plan(s), as applicable, shall be obtained at the Committee of Adjustment office, and the required number of prints of the resultant deposited reference plan(s) shall be received; and
2. That associated variance application A19-121 be approved;
3. That there be no new access allowed from Main Street South;
4. The applicant submits confirmation to the TRCA, that the right-of-way easement is registered on title, and that access to the proposed right-of-way from the proposed "retained" parcel will be maintained open and free of any encumbrances;
5. Arrangements satisfactory to the Region of Peel Public Works shall be made with respect to the location of existing and installation of new services and/or possible required private service easements;

AND that variance application A19-121 is supportable, subject to the following conditions being imposed:

1. Prior to Site Plan approval, a Heritage Permit application be submitted for the construction of the new detached dwelling and a decision rendered by Council;
2. That the design of the dwelling adhere to the recommendations set out in the Heritage Impact Assessment (HB002-2020/PDC021-2020/C053-2020) and any additional measures put forward by Heritage staff during the Site Plan process, to the satisfaction of the Director of Policy Planning;
3. That the new dwelling be no higher than the roofline of the existing cultural heritage resource which is located on the lot to be retained;
4. That the dwelling be designed to avoid impact to as much mature vegetation as possible on the property, consistent with the recommendations set out within the Arborist Report dated August 28, 2020 by Kuntz Forestry Consulting Inc. and any additional related recommendations by City Staff, to the satisfaction of the Director of Development Services, included but not limited to;
  - a. Any potential impacts or removals on shared boundary trees and potential impacts or damage to neighbouring trees must be documented, agreed upon and signed off between all relevant parties prior to work occurring; and
  - b. Potential pruning expectations on any shared boundary trees must be agreed and signed off upon all relevant parties prior to any work occurring;
5. That the foundations of the former outbuilding on the retained parcel, currently incorporated as part of landscaping, shall be protected throughout construction, to the satisfaction of the Director of Policy Planning;
6. That the historic laneway on the property shall be conserved and maintained at its current width without curbs; and
7. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.

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**Background:**

The subject applications were submitted in June 12, 2019. At the time, a number of concerns were raised by City staff and nearby residents. The application was deferred in order to allow time for the applicant to provide additional information, and discuss the proposal in greater detail with City staff, including Heritage Planning and Open Space

Planning. The applicant subsequently submitted a Heritage Impact Assessment (HIA) and an Arborist Report in support of the application.

The application was previously heard at the August 18, 2020 Committee of Adjustment hearing where an additional deferral was granted to allow the applicant to submit a revised Arborist Report after concerns were raised regarding the report.

The purpose of the Consent application is to request the consent of the Committee of Adjustment to sever a parcel of land currently having a total area of approximately 5,919 square metres (1.46 acres), together with an easement for right-of-way purposes. The effect of the application is to create a new residential lot having a depth of approximately 79.42 metres (260.56 feet) and an area of approximately 1,733 square metres (0.43 acres). It is proposed that the new lot will accommodate a single detached dwelling and will utilize the existing access onto Elizabeth Street South.

The proposed severed parcel requires two variances to be permitted in order to facilitate the construction of a new single detached dwelling on the severed lands.

**Existing Zoning:**

The property is zoned "Residential Single Detached A – Special Section 3306 (R1A-3306)" according to By-law 270-2004, as amended.

**Minor Variance Request:**

**Requested Variances:**

The applicant is requesting the following variances:

1. To permit a minimum lot width of 5.48m (17.98 ft.) whereas the by-law requires a minimum lot width of 23m (75.46 ft.);
2. To permit a rear yard setback of 7.84m (25.72 ft.) whereas the by-law requires a minimum rear yard setback of 19.86m (65.16 ft.).

**1. Conforms to the Intent of the Official Plan**

The property is designated "Central Area" in the Official Plan and "Low Density Residential" and "Special Policy Area 1" and "Area D – Main Street South" in the Downtown Brampton Secondary Plan (Area 7). The requested variances to permit a reduced lot width and a reduced rear yard setback are required to facilitate the creation of a new lot, and the construction of a new residential dwelling on that lot.

Section 5.2.2.1 within the Downtown Brampton Secondary Plan provides that typical residential uses associated with the Low Density Designation may include single-detached and semi-detached dwellings subject to their consistency with the existing housing stock of the immediate area and the overall character of the surrounding residential neighbourhood. Any new dwelling to be constructed on the severed parcel will be subject to site plan control including review by Urban Design and Heritage staff

to ensure that any new dwelling is of an appropriate size, massing, and design that are all consistent with the character of the area. Further, the proposed severed parcel will have a “flag and pole” shape which is both consistent with the existing lot fabric of the property and will considerably limit visual impacts of the proposed change in lot fabric, as well as the visibility of a new dwelling.

Section 4.10.1 of the Official Plan prescribes policies related to Built Heritage Resources.

Specifically, Section 4.10.1.9 requires that any “*alteration, removal or demolition of heritage attributes on designated heritage properties will be avoided. Any proposal involving such works will require a heritage permit application to be submitted for the approval of the City.*” In the case of this proposal, in order to ensure that the proposed reduced rear yard setback does not negatively impact the adjacent Heritage Resources, and that the new dwelling is appropriately designed for the character of the neighbourhood, a condition of approval is recommended that, prior to Site Plan Approval being granted, a Heritage Permit Application shall be submitted and a decision rendered by Council on the application. Through these two types of Planning Applications, the City has mechanisms in place to ensure that the dwelling is appropriate for the property and neighbourhood.

Additionally, Section 4.10.1.10 requires that where there is any proposed alteration, construction, or development involving or adjacent to a designated heritage resource, a Heritage Impact Assessment, prepared by qualified heritage conservation professional, shall be required to demonstrate that the heritage property and its heritage attributes are not adversely affected. The applicant has submitted and, based on comments and requirements from Heritage Planning Staff, revised their Heritage Impact Assessment to a point where Heritage Planning Staff are satisfied that the proposal will not negatively impact the adjacent Heritage Resource. Additionally, through the required Site Plan Approval for the proposed dwelling a further additional review will take place of the Heritage Impact Assessment that will allow it to be refined even further as more details of the proposed dwelling are designed and included within the study.

Section 4.10.1.11 allows that, a Heritage Impact Assessment may also be required for any proposed alteration work or development activities involving or adjacent to heritage resources to ensure that there will be no adverse impacts caused to the resources and their heritage attributes, and that mitigation measures shall be imposed as a condition of approval of such applications.

Within the Downtown Brampton Secondary Plan, Section 8.3 sets out policies for heritage resource management.

In particular, Section 8.5.3 provides that proponents of development/redevelopment are encouraged to retain and conserve buildings of architectural and/or historic merit on their original sites and to promote the integration of these resources into any plans which may be prepared for such development. The proposed development, based on

the findings of the Heritage Impact Assessment, is not anticipated to negatively impact the designated heritage attributes on the retained parcel.

Subject to the recommended conditions of approval, the requested variances are considered to maintain the intent of the Official Plan

## 2. Conforms to the Intent of the Zoning By-law

The property is zoned “Residential Single Detached A – Special Section 3306 (R1A-3306)” according to By-law 270-2004, as amended.

Variance 1 is requested to permit a minimum lot width of 5.48m (17.98 ft.) whereas the by-law requires a minimum lot width of 23m (75.46 ft.). “Lot Width” is defined in the Zoning By-law as *“the least distance, measured in a straight line, between the side lot lines, where the side lot lines are parallel.”* This variance is required due to the irregular shape of the proposed lot, which is similar in shape to a “flag and flag pole”. Based on the definition of lot width, the measurement is taken at the narrowest point of the lot (i.e. the “flag pole”). The portion of the property that is proposed to house the building envelope (i.e. the “flag”) meets and exceeds the minimum requirement for lot width.

The intent of the by-law in regulating minimum lot width is to ensure that sufficient area is provided on a property for its proposed use, as well as to remain consistent with the existing streetscape of the area. The proposed “flag shaped” lot to be created will use an existing access off of Elizabeth Street. No alteration to the streetscape is required to permit this access. Similarly, no alteration to the streetscape is proposed along Main Street South to permit the proposed lot. Further, the “flag” portion of the property, where the proposed building envelope is located meets the minimum lot width requirements. Subject to the recommended conditions of approval, Variance 1 is considered to maintain the general intent of the Zoning By-law.

Variance 2 is requested to permit a rear yard setback of 7.84m (25.72 ft.) whereas the by-law requires a minimum rear yard setback of 19.86m (65.16 ft.). This variance is requested in order to facilitate the construction of a single detached dwelling on the severed parcel of land. The intent of the by-law in regulating the minimum required rear yard setback is to ensure that sufficient outdoor amenity space is provided for the subject property, and to ensure that properties to the rear of the subject property is not negatively impacted by the massing or proximity of a building.

Given the proposed location and orientation of the new residential dwelling on the severed parcel, despite the reduced rear yard setback, sufficient outdoor amenity space will be provided. As well, the dwelling located on the retained parcel has a rear yard setback of 19.48 metres (63.91 feet) between the shared lot line and the existing deck, and a further setback of 23.7 metres (77.75 feet) to the existing dwelling. Given these setbacks, it is not anticipated that the massing or proximity of the proposed dwelling on the severed parcel will negatively impact the property at the rear (i.e. the retained parcel). Subject to the recommended conditions of approval, Variance 2 is considered

to maintain the general intent of the Zoning By-law.

### 3. Desirable for the Appropriate Development of the Land

Variance 1, to permit a reduced lot width of 5.48m (17.98 ft.) whereas the by-law requires a minimum lot width of 23m (75.46 ft.). In the case of the severed parcel, the lot will have frontage on Elizabeth Street South, via a small, existing laneway style access. No changes are proposed to this laneway, and a condition of approval is recommended that the laneway be conserved and maintained at its current width without curbs to ensure that there are no impacts to the streetscape on Elizabeth Street South.

Due to the irregular shape of the lot, and the definition of "lot width" within the Zoning By-law, the lot width requested through Variance 1 is reflective of the width of the laneway, rather than the width of the property where the "effective building area" (i.e. where a dwelling can physically be constructed) is located. The portion of the property where the "effective building area" is located is significantly wider than the laneway, and satisfies the minimum lot width requirement set out in the zoning. Subject to the recommended conditions of approval, Variance 1 is considered to be desirable for the appropriate development of the land.

Variance 2 is requested to permit a reduced rear yard setback for the proposed dwelling on the severed parcel. The rear lot line for the severed parcel directly abuts the retained parcel. Given the existing setback of the dwelling on the retained parcel, the proposed location of the new dwelling is not anticipated to negatively impact the retained parcel. A condition of approval is recommended that, prior to Site Plan Approval being granted, a Heritage Permit application be submitted and a decision rendered thereon by City Council. This process, in addition to the Site Plan Application that will be required as per the City's Site Plan Control By-law, will ensure that the new dwelling is of a scale and character that is appropriate to the size and setbacks of the property. Subject to the recommended conditions of approval, Variance 2 is considered to be desirable for the appropriate development of the land.

### 4. Minor in Nature

Variance 1, to permit a reduced lot width, is related to the irregular shape of the proposed lot. Lot width is defined by the Zoning By-law as *"the least distance, measured in a straight line, between the side lot lines, where the side lot lines are parallel."*

Due to the shape of the lot, the "defined" lot width is not the same as the "functional" lot width, which is to say that the portion of the lot that can reasonably facilitate the construction of a new dwelling is significantly wider than the defined lot width. This proposed reduced lot width will allow the existing historical laneway access onto Elizabeth Street South to remain in situ, given that this is the portion of the property that will not be in compliance with the minimum lot width. Finally, the proposed reduced lot width will not impact the existing streetscape on Elizabeth Street South as the laneway is already existing. Subject to the recommended conditions of approval, Variance 1 is considered to be minor in nature.

Variance 2 is requested to permit a reduced rear yard setback for the proposed dwelling on the severed parcel. A condition of approval is recommended that essentially limits the overall buildable area (or building envelope) for the severed lot to an area that is consistent with the general size and location of other residential dwellings in the area. This condition is intended to further ensure that the size and location of the proposed dwelling is consistent with the character of the area, and that visual impacts of the location of the dwelling on adjacent properties, specifically the property abutting the rear property line, are minimized. Variance 2, subject to the number of recommended conditions of approval, is considered to be minor in nature.

### **Consent Request**

#### **Current Situation:**

Staff has undertaken a thorough review of this proposal, relative to the provisions prescribed within Section 51(24) of the Planning Act (as summarized on Schedule "A" attached to this report), and advise that the proposed consent application is considered to represent proper and orderly planning and can be supported from a land use perspective.

Respectfully Submitted,

**Shelby Swinfield**

Shelby Swinfield, Planner I, Development

**SCHEDULE "A"**  
**CRITERIA TO BE CONSIDERED UNDER SECTION 53(12) & 51(24) OF THE**  
**PLANNING ACT**

<b>Criteria To Be Considered</b>	<b>Analysis</b>
a) <i>The effect of development of the proposed subdivision on matters of provincial interest:</i>	<p>The proposed consent is consistent with and has regard to the following matters of Provincial Interest:</p> <p>2(d) the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest;</p> <p><i>- The subject property is a designated Heritage Resource within the City of Brampton. Heritage Planning Staff have recommended a number of conditions of approval, and further both a Heritage Permit Application and Site Plan Application will be required prior to any construction on the property, any alteration to the designated heritage features, and any other development on the property.</i></p>
b) <i>Whether the proposal is premature or in the public interest;</i>	<p>The proposed consent is neither premature nor conflicting with matters of public interest.</p>
c) <i>Whether the plan conforms to the official plan and adjacent plans of subdivision, if any;</i>	<p>The proposed consent does not present any concern with regard to adjacent plans of subdivision.</p> <p>The property is designated "Central Area" in the Official Plan and "Low Density Residential" and "Special Policy Area 1" and "Area D – Main Street South" in the Downtown Brampton Secondary Plan (Area 7).</p> <p>Section 5.6.1 of the Secondary Plan sets out the policies for Special Policy Area 1, including:</p> <p>Section 5.6.1.1 iii) which provides that subdivision of existing lots which front on Main St South shall be discouraged by the City. The intent of this policy is to preserve the historic streetscape character of Main St. South. The policy does not prohibit subdivision of those lots fronting onto Main St South, which allows for consideration of applications with unique circumstances.</p> <p>In the case of this proposed severance, there will be no visible or functional impacts on Main St. South. Further, the severed parcel will obtain access via Elizabeth St. South using an existing, historic laneway style access.</p>



	<p>Section 5.16.1 of the Official Plan, related to Consent Applications provides that, in the consideration of consent applications, the Committee of Adjustment shall be guided by the policies of this Plan, the provisions of the <i>Planning Act</i> and any other relevant matters.</p> <p>Section 5.17.7 through 5.17.15 of the Official Plan, inclusive, set out the General Conditions and Criteria that should guide the Committee in its decision making. These conditions and criteria include, but are not limited to, that the size of any parcel created by a consent should be appropriate to the use proposed, that a parcel created by consent should have similar lot depth and shape as adjoining lots, where appropriate, that the permitted structure should be subject to an appropriate setback from the boundary of a public road, to minimize the impact of traffic upon the privacy areas, and that each new lot created is to front on an existing public highway or street. The requested consent satisfies these criteria.</p> <p>Specifically, Section 5.17.9 provides that where a parcel of land resulting from a consent is to be used for residential purposes, the frontage shall be equal to approximately one half the depth. The intent of the policy within 5.17.9 is intended to ensure that, in conjunction with the other criteria to be considered, the lot being created is functional and appropriate for the residential use proposed.</p> <p>As per the guidance of Section 5.16.1, in the case of this consent the Committee should consider, in terms of other relevant matters, the unique shape of the property, and the historic and a-typical lot fabric within this area of the downtown. The proposed consent will create a lot that is functional for its proposed residential use, and the shape of the proposed lot will be consistent with the a-typical nature of property fabric in the area and will minimize visual impacts of the construction of the new dwelling from Elizabeth Street.</p> <p>The proposed consent, in association with the requested variances, and subject to the conditions of approval recommended thereto, is considered to conform to the Official Plan.</p>
d) <i>The suitability of the land for the purposes for which it is to be subdivided;</i>	The proposed consent is intended to facilitate the development of a single detached residential dwelling. The proposed uses are a suitable use of the lands.
e) <i>The number, width, location and proposed</i>	The proposed consent does not present any concern with regard to the adequacy of the roadway network.

<p><i>grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;</i></p>	
<p>f) <i>The dimensions and shapes of the proposed lots;</i></p>	<p>The proposed consent is accompanied by two requested Minor Variances (presented above) to permit a reduced lot width, and a reduced rear yard setback.</p> <p>Despite the proposed reduced lot depth, the dimension and shape of the lot is considered to be appropriate for the neighbourhood.</p>
<p>g) <i>The restrictions or proposed restrictions, if any, on the land proposed to be subdivided; or the buildings or structures proposed to be erected on it and the restrictions, if any, on adjoining land;</i></p>	<p>The subject property is designated under Part IV of the Ontario Heritage Act for its cultural heritage value/interest. As such, any new buildings or alterations to the property will be required to be reviewed through a Heritage Permit to ensure compliance with the Provincial and local heritage policies.</p> <p>Specifically, as per the Heritage Designation By-law for the property, the Designated Heritage Attributes of 67 Main St. South include the Gothic Revival style dwelling with its 11 foot ceilings and original stained glass windows.</p> <p>Additionally, the property is located within a Site Plan control area that requires the property owner complete a Site Plan Application for any newly constructed dwellings. The process of a Site Plan application includes a complete review of the building size, location, design, access, among other things.</p>
<p>h) <i>The conservation of natural resources and flood control;</i></p>	<p>The proposed consent presents no concerns with regard to flood control and the conservation of natural resources. The applicant has provided an Arborist Report that provides information regarding how the construction of a new dwelling can be accomplished with minimal impact to the trees on site.</p> <p>In accordance with the City's Forestry By-law, permits would be required to injure or remove significant trees on the property.</p>

	<p>In accordance with the Ontario Forestry Act, <i>every tree whose trunk is growing on the boundary between adjoining lands is the common property of the owners of the adjoining lands</i> and that <i>Every person who injures or destroys a tree growing on the boundary between adjoining lands <u>without the consent of the land owners</u> is guilty of an offence under this Act.</i> (Section 10(2) and 10(3)).</p> <p>This is important legislation to note as it prevents a property owner from damaging or removing a tree that is considered to be under shared ownership without having the consent of the shared owner. If the property owner were to not receive permission to injure or remove a tree from the shared owner then that tree would not be permitted to be removed. In this case the property owner would need to alter their building proposal to accommodate the retention of the tree.</p> <p>Further, prior to any construction, proposed grading of the property will be reviewed and approved through the Site Plan process which includes a review of landscape and natural resources on the site.</p>
i) <i>The adequacy of utilities and municipal services;</i>	There are no concerns with regard to the adequacy of utilities and municipal services.
j) <i>The adequacy of school sites;</i>	The proposed consent presents no concerns with regard to the adequacy of school sites.

<p>k) <i>The area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;</i></p>	<p>The application presents no concerns with regard to lands to be dedicated.</p>
<p>l) <i>The extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy</i></p>	<p>The proposed consent has no impact on matters of energy conservation.</p>
<p>m) <i>The interrelationship between the design of the proposal and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41(2) of this Act.</i></p>	<p>The property is located within a Site Plan Control area and as such, all new dwellings are subject to review through a Site Plan Application. Further, the property at 67 Main St. South is designated under Part IV of the Ontario Heritage Act for its cultural heritage value/interest, which means that any alteration to the property including, but not limited to, the construction of a new dwelling is subject to the Heritage Permit process, where each application is reviewed and approved/refused by City Council.</p> <p>Staff are satisfied that this review will address any design matters with the proposal, and ensure that the recommendations of the Heritage Impact Assessment are adhered to.</p>